(18)

No. 88-1640

IN THE

Supreme Court of the United States

OCTOBER TERM, 1989

MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS, *et al.*,
Petitioners,

v.

UNITED STATES ATTORNEY GENERAL
RICHARD THORNBURGH, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

BRIEF AMICUS CURIAE OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

Of Counsel:

W. TERRY MAGUIRE
CLAUDIA JAMES

AMERICAN NEWSPAPER
PUBLISHERS ASSOCIATION
The Newspaper Center
Box 17407
Dulles International Airport
Washington, D.C. 20041
(703) 620-9500

P. CAMERON DEVORE *
MARSHALL J. NELSON
KAREN I. TREIGER

DAVIS WRIGHT & JONES
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
(206) 622-3150

Attorneys for American Newspaper Publishers Association

* Counsel of Record

Date: August 11, 1989

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

1989

TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

IN THE

Supreme Court of the United States

OCTOBER TERM, 1989

No. 88-1640

MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS, *et al.*,
Petitioners,

v.

UNITED STATES ATTORNEY GENERAL
RICHARD THORNBURGH, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

BRIEF AMICUS CURIAE OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

STATEMENT OF INTEREST

American Newspaper Publishers Association ("ANPA") is a national trade association representing approximately 1,385 newspapers throughout the United States. Its membership constitutes approximately ninety percent of the total daily and Sunday newspaper circulation, and a substantial portion of the weekly newspaper circulation, in the United States.

ANPA has consistently supported the principles embodied in the Newspaper Preservation Act, 15 U.S.C. §§ 1801-1804 (1982) (the "Act") and the mechanism the Act provides for advancing those principles. ANPA supported the Act when Congress first considered its enact-

ment and continues to believe that the Act's limited exemption to the antitrust laws provides useful and necessary support for important First Amendment values.

ANPA submits this brief *amicus curiae* in support of respondents' position regarding interpretation of the Act, specifically, the delegation of authority to the Attorney General, and the necessity for a flexible, case-by-case application of the Act's financial failure standard.*

ANPA agrees with the respondents' position that the decision of the Attorney General in this case was within the proper exercise of his delegated authority under the Act, but ANPA otherwise takes no position regarding the merits of the factual record upon which the Attorney General and the lower courts based their decisions regarding the joint newspaper operating arrangement ("JOA") at issue in this case.

SUMMARY OF ARGUMENT

The purpose of the Newspaper Preservation Act is to allow a "failing newspaper" to enter into a JOA when such an agreement will preserve competition in news and editorial operations. To this end, Congress expressly rejected the traditional "failing company" analysis in favor of a more flexible test that recognized the unique economics of newspaper competition. Congress also delegated to the Attorney General the authority to decide whether under that test a newspaper was failing.

The Court of Appeals' affirmance of the decisions of the District Court and the Attorney General and its rejection of petitioners' arguments are consistent with the Act and its legislative history. A contrary decision would seriously impair the availability of the Act to otherwise qualified newspapers that find themselves forced to seek refuge in the Act's limited antitrust exemption.

---

* Written consent of all parties has been filed with the Clerk of the Court, as required by Supreme Court Rule 36.

ARGUMENT

I. THE OVERRIDING PURPOSE OF THE NEWSPAPER PRESERVATION ACT IS TO PRESERVE COMPETING NEWS AND EDITORIAL OPERATIONS.

Local newspapers occupy a unique position among the news media in America. They cover news and public issues of concern to their communities with a thoroughness, immediacy, and accessability unmatched by any other medium. When two newspapers compete on this plane, they provide the diversity of viewpoints, analysis, and editorial opinion that is a vital part of the democratic process—they sustain the "market place of ideas" on which modern First Amendment theory is grounded. *See New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). *See also Associated Press v. United States*, 326 U.S. 1, 20 (1944).

Newspapers also offer a forum for local advertising, but in constant competition with an ever-expanding selection of other media.[1] When two newspapers compete with each other in this commercial marketplace, they may find in some cases that the market share committed to newspaper advertising simply is not large enough to sustain both newspapers. Even where the market itself may be large enough, the unique economics of newspaper competition may make the weaker competitor especially susceptible to failure, because of the close interrelationship between circulation and advertising. As the Court of Appeals succinctly observed in this case:

> Once a paper loses circulation, advertisers are less likely to purchase space in the paper. Readers, in turn, are less likely to buy a paper that is short on advertising, so circulation drops further. The result

---

[1] The effect of competition from other media is well documented in the legislative history of the Act. *See, e.g.*, 116 Cong. Rec. S1783-92, 1808-09 (daily ed. Jan. 29, 1970), H23152-68 (daily ed. July 8, 1970).

> of this interrelationship is an apparently irreversible downward plunge that ends in business failure.

Michigan Citizens For an Independent Press v. Thornburgh, 868 F.2d 1285, 1288 (D.C. Cir. 1989).

The pervasive effect of this interrelationship goes even further than the court suggested. The concept that advertisers will prefer the newspaper that delivers the greatest number of readers, and thus the greatest number of potential customers, is well recognized. Losses in circulation affect not only revenues from subscribers, but also revenues from advertising. It is less obvious, but equally true, that newspaper readers prefer a newspaper that has more of the advertising they need: more discount food coupons, more home and job listings, more back-to-school sales, and so on. Losses in advertising thus lead to losses in circulation.

Less directly, but with even more serious consequences, a drop in either circulation or advertising revenue affects the financial ability of the newspaper to maintain news and editorial departments at levels necessary to compete effectively for readers, and eventually erodes the economies of scale necessary for financial stability. In simple terms, as the number of readers and number of pages decrease, the unit cost of producing and delivering the newspaper increases.

As all of these economic forces conspire against the weaker competitor, newspapers may find themselves locked in fierce competition just to avoid slipping into the secondary position. As one witness testified at the Senate hearings on the Act:

> This spiraling, once commenced, accelerates rapidly and reversal of the trend is always difficult and sometimes impossible. It is almost always a fatal disease.

The Failing Newspaper Act: Hearings on S. 1312 Before the Subcomm. on Antitrust and Monopoly of the

Senate Comm. on the Judiciary, 90th Cong., 1st Sess. 545 (1967) (Stateemnt of Charles Thieriot, President, Chronicle Publishing Co.)[2] A newspaper faced with this prospect will logically do whatever it takes in pricing and marketing to become or remain the leader in both circulation and advertising linage.

Historically, these unique economic circumstances have forced some newspapers to close, some to merge, and others to enter arrangements whereby they maintain separate news and editorial staffs but conduct joint commercial operations. This last alternative, however, was effectively removed in 1969 when the Supreme Court held in *Citizen Publishing Co. v. United States*, 394 U.S. 131, 135 (1969), that one such joint operating arrangement in Tucson, Arizona, violated the antitrust laws. That decision threatened the present status of and future prospects for newspapers that depended or would come to depend on commercial cooperation with a competitor in order to survive to compete reportorially and editorially.

---

[2] In this brief the following short titles are used:

(a) *Decision and Order In the Matter of Application by Detroit Free Press, Inc., and The Detroit News, Inc.,* for Approval of a Joint Newspaper Operating Arrangement, Docket No. 44-03-24-8 (1988) ("Detroit Attorney General Decision").

(b) *Recommended Decision of the Administrative Law Judge, In the Matter of Application by Detroit Free Press, Inc. and The Detroit News, Inc.,* Docket No. 44-03-24-8 (Dec. 29, 1987) ("ALJ Decision").

(c) *Opinion and Order Regarding Application of Seattle Times Co. and Hearst Corp. for Approval of a Joint Operating Arrangement* (Atty Gen. Order 979-82), 47 Fed. Reg. 26472 (June 18, 1982) ("Seattle Attorney General Decision").

(d) *Attorney General's Order Approving Chattanooga Joint Operating Arrangement*, 45 Fed. Reg. 58733 (Sept. 4, 1980) ("Chattanooga Attorney General Decision").

(e) S. Rep. No. 535, 91st Cong., 1st Sess. ("Senate Report").

[Continued]

Congress acted promptly to enact the Newspaper Preservation Act[3] and provide a limited exception to the general application of the antitrust laws in order to preserve a basic First Amendment principle: that the American people are best served by a diversity of sources of information. The "failing newspaper" test of the Act was intended to replace the more stringent "failing company" standard that the Supreme Court had applied in *Citizen Publishing* and to reverse the effects of that decision. *See Independent Press*, 868 F.2d at 1288; Senate Report at 4; Statement of Sen. Bennett at S1788. In adopting the new test, Congress recognized the unique value of local newspapers to their communities and the importance of preserving competing voices even where economic competition might not be possible.

II. CONGRESS DELEGATED TO THE ATTORNEY GENERAL THE ROLE OF DETERMINING WHEN A NEWSPAPER IS "FAILING."

To avail itself of the Act's protection, a newspaper must seek the prior written consent of the Attorney General of the United States. The Attorney General must

---

[2] [Continued]

(f) 116 Cong. Rec. S1786-87 (daily ed. Jan. 29, 1970) (Statement of Sen. Bennett) ("Statement of Sen. Bennett").

(g) Newspaper Preservation Act: Hearings on S.1520 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. (1969) ("1969 Senate Hearings").

(h) Newspaper Preservation Act: Hearings on H.R. 279 Before the Subcomm. on Antitrust of the House Comm. on the Judiciary, 91st Cong., 1st Sess. (1969) ("1969 House Hearings").

(i) Newspaper Preservation Act: Hearings on H.R. 19123 Before the Subcomm. on Antitrust of the House Comm. on the Judiciary, 90th Cong., 2nd Sess. (1968) ("1968 House Hearings").

[3] Newspaper Preservation Act, Pub. L. No. 91-353, 84 Stat. 466 (1970) (current version at 15 U.S.C. §§ 1801-1804 (1982)).

base his approval on two findings: first, that not more than one of the newspapers involved is other than a "failing newspaper," and second, that his approval will effectuate the policy and purpose of the Act. 15 U.S.C. § 1803(b).

The Act defines a "failing newspaper" as "a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure." 15 U.S.C. § 1802(5). The plain language of this test reflects Congress's intent to provide a realistic standard that focuses on the preservation of competing news and editorial points of view in the community. Once a probability of financial failure has been determined, the Attorney General must approve an application where the purpose of the Act is served.

The preamble to the Act states its unambiguous purpose:

> In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this chapter.

15 U.S.C. § 1801.

In upholding the Attorney General's decision to approve the present JOA, the Court of Appeals correctly noted:

> Congress . . . delegated to the Attorney General, not to us, the delicate and troubling responsibility of putting content into the ambiguous phrase "probable danger of financial failure."

Independent Press, 868 F.2d at 1297. In this case, the Attorney General requested that an ALJ hold a hearing,

he considered the ALJ's findings of fact, and consistent with his delegated responsibility, he made independent legal conclusions. It is the conclusions of the Attorney General, not the ALJ, that have legal significance. *See id.* at 1294.

In reaching these conclusions, the Attorney General expressly adopted the "failing newspaper" test enunciated by the Ninth Circuit in *Committee for an Independent P-I v. Hearst Corp.*, 704 F.2d 467 (9th Cir.), *cert. denied*, 464 U.S. 892 (1983): "Is the newspaper suffering losses which more than likely cannot be reversed?" *Independent Press*, 868 F.2d at 1292; *Hearst*, 704 F.2d at 478. As the D.C. Circuit appropriately held, the Attorney General's adoption and application of the *Hearst* test was reasonable. *Independent Press*, 868 F.2d at 1291. He acknowledged the ALJ's opinion that, in theory, both papers *might* reverse their losses if they both raised advertising and circulation prices. Detroit Attorney General Decision at 9 n.3. However, he concluded that it was highly improbable that one or the other newspaper would unilaterally raise its prices, and the consequence if they did not—the loss of an editorial voice in Detroit—was too great a risk.[4] *See Independent Press*, 868 F.2d at 1296. Given the overriding purpose of the Act, to maintain news and editorial competition, this decision was not unreasonable. In fact, it reflects precisely the kind of analysis Congress intended in delegating the ultimate decision to the Attorney General as the person best qualified to balance public policy objectives and decide the appropriateness of JOA applications:

> Congress . . . did not place responsibility for reconciling the conflicting policies and values called for in this type of case upon the Antitrust Division, but rather on the Attorney General, who might be thought to have a broader perspective.

Id. at 1293.

[4] Given the fact that the newspapers could not lawfully *agree* to raise their prices and the potentially fatal consequences of being the first to do so unilaterally, the Attorney General's refusal to gamble on this possibility is understandable. (See discussion at pp. 4-5, *supra*.)

In this case, the Attorney General acted well within the proper scope of his responsibility by applying the *Hearst* test to the Detroit newspapers' JOA application. He determined that at least one of the newspapers involved was failing and that his approval would permit editorial and reportorial competition to survive in Detroit, thus achieving the legislative purposes of the Act.

III. THE PURPOSES OF THE ACT CAN ONLY BE EFFECTUATED BY A FLEXIBLE, CASE-BY-CASE APPROACH.

A. A Newspaper May Be Deemed "Failing" Before it Enters a Downward Spiral.

Congress clearly intended that each proposed JOA be considered on its own merits and considered in light of its contribution to achieving the Act's purpose. As Attorney General Smith noted:

> Congress intended the determination whether a newspaper is "failing" to *be made case-by-case*, based upon a weighing of all relevant factors and *without the application of particular per se rules.*

Seattle Attorney General Decision, 47 Fed. Reg. at 26474 (emphasis added). The Attorney General's observations echoed the remarks of Senator Bennett: "The factors which are to be considered . . . in determining whether a newspaper is failing would vary with the particular circumstances of the newspaper involved." Statement of Sen. Bennett at S1786-87. *See also*, 1968 House Hearings at 68 (Statement of John L. Donahue, Jr., Publisher, Tucson Daily Citizen) (Act would require "case-by-case determination of failure"). The Attorney General's analysis of the Detroit JOA application is consistent with that congressional mandate.

By creating a flexible definition of "failing newspaper"—*i.e.*, "a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure" (15 U.S.C. § 1802(5))—Congress intended to allow newspapers to enter into a JOA before one of them enters a downward spiral, the economic point of no return.[5] The legislative history makes this plain:

> [N]ewspaper stability and continued life of a newspaper cannot be achieved by requiring an exhaustion of all available resources before the failing company doctrine is deemed applicable . . . . In other words, the court should be able to recognize the trend toward failure and not be required to wait until it is irreversible.

Statement of Sen. Bennett at S1786-87. *See also* 1968 House Hearings at 41 (statement of Rep. Matsunaga) ("If . . . a failing newspaper is allowed to go into a joint operating agreement at a stage sufficiently early in its financial decline, the chances for its continuing as a separate newspaper are much better.").

Forcing a newspaper to reach the point of accelerating decline before it is entitled to relief under the Act would place it in a position where it may well have no appeal as a JOA partner. In House hearings on a similar bill introduced in the 90th Congress, Representative Matsunaga described the problem:

> Since the most important assets of a newspaper are its personnel and reputation, these may be lost as financial failure approaches. By the time the newspaper is sufficiently in trouble to satisfy the present "failing company" doctrine, as it had been in cases of industrial companies, it may have little value as an acquisition by another newspaper.

1968 House Hearings at 40 (statement of Rep. Matsunaga). *See also* 1969 House Hearings at 9 (statement of Rep. Matsunaga on behalf of sponsors) ("it is probable that the disparity of economic power will tend to destroy any remaining workable competition between the existing entities").

[5] The dire situation of a newspaper finally caught in the "downward spiral" is well recognized. The only appellate court decision that interprets the financial standard of the Act acknowledges that a newspaper in a downward spiral is virtually certain to be in "probable danger of financial failure." *Committee for an Independent P-I v. Hearst*, 704 F.2d 467, 479 (9th Cir.), *cert. denied*, 464 U.S. 892 (1983). The legislative history of the Act also acknowledges the irreversible situation of a newspaper caught in a downward spiral. *See, e.g.*, 1969 House Hearings at 12 (statement of Congressman Matsunaga on behalf of sponsors).

Although the ALJ in this case believed that the *Free Press* was not yet in a downward spiral, (*See* ALJ Decision at 100-01; 113), the Attorney General's determinations that it was nevertheless a "failing newspaper" and that a JOA would preserve news and editorial competition in Detroit, were reasonable and consistent with the intent of the Act. *See Independent Press*, 868 F.2d at 1291. The Court of Appeals agreed, in part, because the future of the *Free Press* was "dependent on the competitive behavior of the *News*." *Id* at 1292.

The Ninth Circuit in *Hearst* also recognized that in reversing *Citizen Publishing*, Congress intended to allow "newspapers to enter into a JOA prior to the time the financially troubled newspaper is on its death bed." *Hearst*, 704 F.2d at 474. Although *Hearst* involved a failing newspaper that the court found was in a downward spiral, it defined a broader standard for "failure":

> The Act should receive a commonsense construction. The probable danger standard is, by the plain meaning of its words, primarily an economic standard: Is the newspaper suffering losses which more than likely cannot be reversed?

Id. at 478; *see Independent Press*, 868 F.2d at 1292.

B. The Failing Newspaper Test Is Based on Probabilities, Not Certainties.

The Ninth Circuit held that proponents of a JOA must show the "economic fact of *probable* failure." *Hearst*, 704 F.2d at 479 (emphasis added). This approach is entirely consistent with the legislative history discussed above. The Act requires a showing that the newspaper be "in *probable* danger of financial failure." 15 U.S.C. § 1802(5) (emphasis added). The Ninth Circuit's requirement that the newspaper show that it is suffering losses which "more than likely" cannot be reversed is also wholly consistent with this language. *Hearst*, 704 F.2d at 478; 15 U.S.C. § 1802(5).

Consistent with the holding of the Ninth Circuit, previous Attorneys General have made it clear that the Act mandates a review of economic probabilities. In conjunction with his review of the Seattle application, Attorney General Smith stated that the " 'danger of financial failure' must be assessed as a matter of probabilities, not certainties." Seattle Attorney General Decision, 47 Fed. Reg. at 26473. In his order approving the Chattanooga JOA, Attorney General Civiletti stated: "There does not appear to be any reasonable prospect that the Times' history of accelerating losses can be reversed." Chattanooga Attorney General Decision, 45 Fed. Reg. at 58733.

The District Court found that the ALJ in this case did not properly analyze the probability of financial failure when he asked whether the applicant demonstrated "irreversible conditions which will lead to dominance and the downward spiral." *See Michigan Citizens for an Independent Press v. Attorney General*, 695 F. Supp. 1216, 1220 (D.D.C. 1988); ALJ Decision at 120-21. The District Court correctly concluded that the ALJ's rigid application of the Act was inconsistent with precedent and legislative history and tended to subvert the policy and purpose of the Act. The District Court therefore concluded properly that the Attorney General was correct in

rejecting the ALJ's legal conclusion. *See Independent Press*, 695 F. Supp. at 1220.

The ALJ's conclusion was not consistent with the Act, its legislative history, or its consistent interpretation by succeeding Attorneys General and the courts. The ALJ's standard would pose a serious threat to the availability of the Act for newspapers that are "in probable danger of financial failure" but may not, for a variety of reasons, immediately face "dominance and the downward spiral." ANPA submits that the Attorney General, the District Court, and the Court of Appeals were all correct in rejecting the ALJ's misinterpretation of the standard, and indeed, that the Attorney General's interpretation is crucial to the proper functioning of the Act.

The focus of the ALJ and petitioners on the "downward spiral" as a per se test under the Act comes dangerously close to resurrecting the "failing company" doctrine as applied to newspapers by the Supreme Court in *Citizen Publishing*. By expressly rejecting *Citizen Publishing*'s test, Congress clearly stated its intention that a newspaper be permitted to participate in a JOA before its financial condition is grave enough to satisfy the "failing company" standard of *Citizen Publishing*. *See Hearst*, 704 F.2d at 474, 476, 479 n.10 and legislative history cited therein; Seattle Attorney General Decision, 47 Fed. Reg. at 26473-74.

The ALJ's "per se" test, implicitly supported here by petitioners, demands economic *certainties*. *See Independent Press*, 868 F.2d at 1292 n.7. The required *certainty* of failure was the very reason that Congress specifically rejected the Supreme Court's *Citizen Publishing* ruling. Thus, the Court of Appeals properly upheld the District Court's affirmance of the Attorney General's probability-based decision as being firmly grounded in the language and purposes of the Act.

C. The Test Is Whether the Individual Newspaper Is Failing, Without Regard to Its Ownership or Affiliation.

The ALJ's conclusion that an applicant must show that it is inevitably confronted with dominance and a "downward spiral" is equally flawed because it has the inevitable, though perhaps unintended, effect of focusing on a corporate parent's investment in an applicant newspaper and not on the applicant's status standing alone. Indeed, the ALJ predicted that the Free Press would "not enter the downward spiral so long as Knight-Ridder remains in Detroit." ALJ Decision at 113; *see Independent Press*, 868 F.2d at 1295 n.12. The Act, however, unambiguously requires that the determination of whether a newspaper is, in fact, "in probable danger of financial failure" be made "regardless of its ownership or affiliations." 15 U.S.C. § 1802(5).

The Senate Report explains why this phrase was included in the Act: "Whether a newspaper is failing should be determined on the basis of the operation in the particular city rather than on the basis of the sweep of the newspaper owner's business interests." Senate Report at 5. During floor debate, Senator Hruska noted that if this language was not included "the test would not be whether the newspaper was failing, but whether the owners of the newspaper were themselves failing." 116 Cong. Rec. S2006 (daily ed. Jan. 30, 1970) (statement of Sen. Hruska). *See also* 116 Cong. Rec. H23147 (daily ed. July 8, 1970) (statements of Reps. Eckhardt & Kastenmeier) (confirming corporate owner's other assets not to be taken into account in determination of "failing newspaper"); 1969 Senate Hearings at 306 (statement of Sen. Cohen) ("[U]nder this bill . . . you could not take into consideration what the other affiliates or subsidiaries of that newspaper were doing."). The Ninth Circuit also recognized the Act's requirement that the "ailing newspaper should be analyzed as a free-standing entity, as if it were not owned by a corporate parent." *Hearst*, 704 F.2d at 480. *Accord*, Seattle Attorney General Decision, 47 Fed. Reg. at 26474. The D.C. Circuit correctly noted that the ALJ's prediction of Knight-Ridder support for the Free Press was "an impermissible consideration under the NPA." *Independent Press*, 868 F.2d at 1295 n.12.

CONCLUSION

The importance of not allowing the "in probable danger of financial failure" standard to be misinterpreted cannot be overstated. The Attorney General's refusal to adopt a per se rule, his consideration of the particular circumstances of the applicants in this case, and his analysis of applicable precedent resulted in a reasonable decision, fully consistent with the policy and purpose of the Act. The Court of Appeals correctly upheld the District Court's affirmance of the Attorney General's decision.

The Newspaper Preservation Act has preserved news and editorial competition in at least eighteen cities across the United States. Affirmance of the Attorney General's legal interpretation of the "in probable danger of financial failure" test is wholly consistent with Congress's intention to provide a viable vehicle for preserving news and editorial competition in all future qualifying cities. This legal interpretation should be upheld.

Respectfully submitted,

Of Counsel:

W. TERRY MAGUIRE
CLAUDIA JAMES

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION
The Newspaper Center
Box 17407
Dulles International Airport
Washington, D.C. 20041
(703) 620-9500

P. CAMERON DEVORE *
MARSHALL J. NELSON
KAREN I. TREIGER

DAVIS WRIGHT & JONES
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
(206) 622-3150

Attorneys for American Newspaper Publishers Association

Date: August 11, 1989

* Counsel of Record